

REMARKS

Claims 13 and 14 have been canceled without prejudice or disclaimer to the subject matter contained therein. Accordingly, Claims 1-8 and 10 are pending in this application.

I. Obviousness-type Double Patenting Rejection.

At pages 2-3 of the Official Action, claims 1-8 and 10, are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Ulrich et al. (U.S. Patent No. 7,279,488). Applicant has filed herewith a Terminal Disclaimer over U.S. Patent No. 7,279,488. Applicant submits that the filing of the terminal disclaimer obviates the Examiner's rejections of the above-noted claims and, therefore, respectfully requests that this rejection be withdrawn.

II. At pages 3-6 of the Official Action, claims 13 and 14 are rejected under 35 USC § 112, first paragraph as being non-enabled.

The Examiner asserts that the "specification does not enable the instant compound to alter the gene expression and therefore to treat any and all known or unknown diseases." Applicant respectfully traverses this rejection. However, solely to remove the basis for this rejection, Applicant has canceled claims 13 and 14 without prejudice to or disclaimer of the subject matter contained therein, thereby rendering this rejection moot. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection of claims 13 and 14.

Conclusion


Based upon the above amendment and remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to reconsider and withdraw the pending rejections and allow pending claims 1-8 and 10 of this application. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned attorney if she has any questions or comments.

Respectfully submitted,

THE NATH LAW GROUP

Date: June 17, 2008

A handwritten signature in black ink, appearing to read "Gary M. Nath", written over a horizontal line.

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